UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,833	03/30/2004	Erwin Haller	08146.0001U1	3114

23859 7590 07/05/2005

NEEDLE & ROSENBERG, P.C.
SUITE 1000
999 PEACHTREE STREET
ATLANTA, GA 30309-3915

EXAMINER	
WUJCIAK, ALFRED J	

ART UNIT	PAPER NUMBER
3632	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/812,833	HALLER, ERWIN	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/8/04 & 10/21/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for the serial number 10/812,833, DEVICE AND METHOD FOR SPRINGING A VEHICLE SEAT, filed on 3/30/04.

Specification

The disclosure is objected to because of the following informalities: On page 1, line 11, "preambles of Patent Claims 1 and 11" is indefinite because it can not be referred by claims 1 and 11; page 3, lines 1-2, "Patent Claim 1" should be deleted because it can not be referred by claim 1 in the specification; page 5, line 15, "dependent claims" is indefinite because it can not be referred by claims in the specification.

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, vehicle seat must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure

must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the word "means" is preceded by the word(s) "control device" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 5, the word "means" is preceded by the word(s) "weight" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 8, the word "means" is preceded by the word(s) "weight" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 12, the word "means" is preceded by the word(s) "recognition" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Regarding claim 12, the word "means" is preceded by the word(s) "control device" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claims 11-15 are indefinite because the applicant did not list or provide the step for method claims.

Claims 1 and 11, line 1, "in particular" is indefinite because it cites range within a range problem. See MPEP 2173.05 (d).

Claim 13, line 4, "recognition" should be changed to ---recognition means--- for clarification.

Claims 2-10 are rejected as depending on rejected claim 1. Claims 12-14 are rejected as depending on rejected claim 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # Re. 35,572 to Lloyd et al.

Lloyd et al. teaches a spring device (figure 4) having at least one air spring (48, 138) arranged between a seat part (50) and a lower part (40) for height adjustment. The device includes a control device (102) for supplying air to the spring. The device includes means (104) of control device that control the air flow to the valve. Furthermore, Lloyd et al. teaches the range of force-path air spring characteristic (columns 2 and 5-6). The device includes at least one pneumatic directional control valve (142) for supplying the additional air volume. The device includes an adjustment device (54,56) for the automatic height adjustment of the seat part at the start a use operation by a user having a predefined weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 6,237,889 to Bischoff.

Lloyd et al. teaches the adjustment device but fails to teach the adjustment device includes a regulator switch that is arranged in the region of the armrest of the vehicle seat. Bischoff teaches the regulator switch (210) that is arranged in the region of the armrest of seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the regulator switch to Lloyd et al.'s adjustment device as taught by Bischoff to provide control in the adjustment device to increase or decrease the damping pressure of the adjustment device.

Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added

the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Claims 9, 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al.

Lloyd et al. teaches a spring device (figure 4) having at least one air spring (48, 138) arranged between a seat part (50) and a lower part (40) for height adjustment. The device includes a control device (102) for supplying air to the spring. The device includes means (104) of control device that control the air flow to the valve. Furthermore, Lloyd et al. teaches the range of force-path air spring characteristic (columns 2 and 5-6). The device includes at least one pneumatic directional control valve (142) for supplying the additional air volume.

In regards to claim 9, Lloyd et al. teaches the device provides air volume control in the spring but fails to teach the additional air volume is supplied or discharged greater than 0.11 in the first range of the force-path air spring characteristic and is either 0.01 or greater than 0.01 in the further range. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the air volume control to 0.11 in supply or discharge and 0.01 or greater than 0.01 in the further range to increase comfort for a rider when the external impact occurs on the vehicle.

In regard to claims 11 and 15, Lloyd et al. teaches all elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specific elements in step in method to provide comfort for rider on the seat when the external impact occurs on the vehicle.

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of US Patent # 5,574,424 to Nguyen.

Lloyd et al. teaches all elements above but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specific elements in step in method to provide comfort for rider on the seat when the external impact occurs on the vehicle.

Lloyd et al. teaches the device but fails to teach the device includes a recognition device. Nguyen teaches the recognition device (18) for recognizing a user using the seat. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the recognition device to Lloyd et al.'s device as taught by Nguyen to provide a time saving from adjusting the seat to meet the user's expectation for comfort of seating.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 5,735,509 to Gryp et al.

US Patent # 6,886,650 to Bremner

US Patent # 6,719,258 to Bryngelson et al.

US Patent # 6,371,456 to Ritchie et al.

US Patent # 6,264,163 to Ivarsson

US Patent # 5,234,203 to Smith

US Patent # 5,004,206 to Anderson

Gryp et al., Bremner, Bryngelson et al., Ritchie et al., Ivarsson, Smith and Anderson teach pneumatic chair support for vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632 A. Joseph Wujciak

6/20/05